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The Honorable Barbara J. Rothstein
Noted for: August 10, 2001

AUG 07 2001 MR

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBERT HICKEY, KENNETH HANKIN,
JENNIFER HUDZIEC, STEPHANIE LANE,
CARROLL JACKSON, DENISE COOPER,
NICOLE PEARSON and EMILY MALONEY,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v

THE CITY OF SEATTLE, a municipality;
PAUL SCHELL, Mayor of the City of Seattle;
NORMAN STAMPER, Former Chief of
Police of the City of Seattle,

Defendants.

No C00-1672R (BJR)

WTO Proceeding

PRAECIPE

TO THE CLERK OF THE ABOVE-ENTITLED COURT.

The attached copy of Defendants' Opposition to Motion for Entry of Revised
Scheduling Order filed with the court on August 6, 2001 was erroneously filed under the
case encaptioned George P. Hickey v. City of Seattle, Cause No. C00-0481L (BJR), rather

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38

1 than the above-captioned case. Please accept the attached copy of defendants' opposition
2 for filing with the court.

3 DATED this 7th day of August, 2001

4 STAFFORD FREY COOPER

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6 By 
7 Ted Buck, WSBA # 22029
8 Attorneys for Defendants
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PRAECIPE - 2

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Certificate of Service

The undersigned certifies under the penalty of perjury according to the laws of the United States and the State of Washington that on this date I caused to be served in the manner noted below a copy of this document entitled PRAECIPE on the following individuals:

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☐ Via Facsimile
☒ Via Mail to Lead Counsel Steve Berman
☒ Via Messenger to all other counsel

DATED this 7th day of August, 2001, at Seattle, Washington.


Brina Carranza

PRAECIPE - 3

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The Honorable Robert S. Lasnik
Noted for August 10, 2001

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GEORGE P. HICKEY,

Plaintiff,

No. C00-0481L (BJR)

v.

WTO Proceeding

CITY OF SEATTLE,

Defendant.

DEFENDANTS' OPPOSITION TO
MOTION FOR ENTRY OF REVISED
SCHEDULING ORDER

DEFENDANTS, by and through counsel of record Ted Buck and Stafford Frey Cooper, respectfully submit the following in opposition to the plaintiffs' motion for entry of revised case schedule order. This response is premised upon the accompanying argument, the Declaration of Dori M. Sutton, the Declaration of Lisa M. Marchese, and the Buck Declaration Regarding Motion for Entry of Revised Case Schedule Order.

I. FACTS

The case schedule and trial date in this matter were suspended by the court in February, 2001 at the plaintiffs' request. The suspension of the case schedule occurred after the plaintiffs requested additional time to undertake preliminary discovery prior to coordinating the depositions of key city personnel with attorneys for other WTO plaintiffs. Buck Declaration, ¶ 2. When the court suspended the trial date and case schedule, the court also instructed the parties to work out new case schedules for the involved cases,

DEFENDANTS' OPPOSITION TO MOTION
FOR ENTRY OF REVISED SCHEDULING
ORDER - 1

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1 including the instant case, that would allow these plaintiffs to adequately prepare for the
 2 depositions at issue and accommodate the other discovery needs. Also involved in that
 3 conference were the attorneys for the plaintiffs in the ACLU-sponsored WTO case Menotti,
 4 et al. v. The City of Seattle. Id.

5 After that conference and the suspension of the case schedules, as directed by the
 6 court the defendants' attorney communicated with the plaintiffs' attorney in the Menotti case
 7 to establish an agreeable trial schedule pursuant to the court's direction. Specifically, Ted
 8 Buck, the defendants' attorney and James Lobsenz, the lead attorney for the Menotti
 9 plaintiffs, agreed on a new case schedule which was presented to the court and provides
 10 for a trial date of January 17, 2002. Buck Declaration, ¶ 3. These plaintiffs have made no
 11 effort to coordinate a new case schedule as the court directed since that conference. Id.

12 The original case schedule in this action provided a trial date of December 10, 2001,
 13 and a deadline for a class certification motion of January 4, 2001. Id., ¶ 4. At the plaintiffs'
 14 request, the defendants agreed to allow these plaintiffs an additional four months to present
 15 their motion for class certification to allow them more time for preliminary discovery before
 16 having to file the motion. By stipulation, the deadline for class certification was moved to
 17 April 5, 2001. The plaintiffs, contemporaneous to the filing of this motion, just filed a motion
 18 for class certification to be heard on the same day as this motion, August 10, 2001. The
 19 date for the hearing of the class certification motion, therefore, is eight months after the
 20 date set by the court's original scheduling order.

21 Notwithstanding that obvious delay, the plaintiffs now seek to have the court
 22 reinstate the original case scheduling order, calling for a trial date of December 10, 2001.

23 Prior to preparing this response, the defendants' attorney Ted Buck called the
 24 plaintiffs' attorney, Michael McNamara and asked him to strike this motion given the court's
 25 suspension of the case schedule and the plaintiffs' delay in seeking class certification.
 26

DEFENDANTS' OPPOSITION TO MOTION
 FOR ENTRY OF REVISED SCHEDULING
 ORDER - 2

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1 Buck Declaration, ¶ 12 Mr McNamara informed Mr. Buck that he would check into it and
 2 get back to him. As of the time of the filing of this response, there had been no response.
 3 Id. Since this matter's schedule was suspended, the defendants' lead attorney's as
 4 developed a direct conflict with the original trial date. Id., ¶ 13.

5 Two motions are soon to be pending before the court which could dramatically affect
 6 the scope and course of this trial. Specifically, together with other WTO-related cases, the
 7 court is to decide on August 10, 2001 the legality of certain acts by the City of Seattle in
 8 issuing emergency proclamations during WTO week. The legal issues to be decided in that
 9 motion will be dispositive as to a number of the class-related claims in this lawsuit. Further,
 10 the plaintiffs have now moved for class certification, also to be heard on August 10, 2001.
 11 The outcome of those motions will clearly alter the scope of discovery and issues for trial in
 12 this case in a significant way.

13 II. ARGUMENT

14 The plaintiffs' effort to reinstate the original case scheduling order after they ask that
 15 it be suspended, and after more than eight months have passed since the original deadline
 16 for filing a class certification motion, manifestly prejudices the defendants. The plaintiffs
 17 now are placing before the court issues which will dramatically affect the scope of this
 18 lawsuit, and which may not be decided for some time. After delaying their motion for class
 19 certification for eight months, the plaintiffs now ask the court to reinstate the original case
 20 scheduling order allowing the defendants virtually no time to perform any discovery in
 21 response to the pending motion. For obvious reasons, the defendants have not engaged in
 22 substantial discovery pending the plaintiffs' motion for class certification. The plaintiffs'
 23 request is inequitable and should be denied by the court.

24 Further, the plaintiffs have completely ignored the court's direction regarding the
 25 parties working together on a new, cooperatively established case schedule. As evidenced
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 FOR ENTRY OF REVISED SCHEDULING
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1 by the defendants' attorneys' action in the Menotti action, the defendants' attorneys have
 2 been ready and willing to cooperate on the establishment of a new case schedule which
 3 will accommodate all parties' needs since the date the original case schedule in this case
 4 was suspended. The court should deny the plaintiffs' motion for this additional reason, that
 5 the plaintiffs have made no effort whatsoever to cooperatively address the issue of the case
 6 schedule with the defendants as the court previously ordered.

7 Finally, as further set forth in the accompanying Buck Declaration, since this trial
 8 date and case schedule were suspended by the court at the plaintiffs' request, the
 9 defendants' lead attorney has scheduled another trial in that time slot and consequently
 10 has a conflict on December 10th.

11 For all the above reasons, the defendants respectfully request the court deny the
 12 plaintiffs' motion and direct the plaintiffs to cooperate with the defendants in establishing a
 13 reasonable and agreeable case schedule for the remainder of this case which conforms
 14 with the history of the proceeding to date.

15 RESPECTFULLY SUBMITTED this 6th day of August, 2001.

16 STAFFORD FREY COOPER

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18
19 By



Ted Buck, WSBA # 22029
Attorneys for Defendants

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DEFENDANTS' OPPOSITION TO MOTION
FOR ENTRY OF REVISED SCHEDULING
ORDER - 4

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The undersigned certifies under the penalty of perjury according to the laws of the United States and the State of Washington that on this date I caused to be served in the manner noted below a copy of this document entitled DEFENDANTS' OPPOSITION TO MOTION FOR ENTRY OF REVISED SCHEDULING ORDER on the following individuals:

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Erwin Chemerisnky Professor of Law University of Southern California Law School University Park Los Angeles, CA 90089-0071 <i>Counsel for Plaintiffs</i>	

- ☐ Via Facsimile
☒ Via Mail
☒ Via Messenger

DATED this 6th day of August, 2001, at Seattle, Washington.


Brina Carranza

DEFENDANTS' OPPOSITION TO MOTION
FOR ENTRY OF REVISED SCHEDULING
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